

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	WC Docket No. 11-42
Lifeline and Link-Up Reform and)	
Modernization)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
ETC Annual Reports and Certifications)	WC Docket No. 14-58
)	
Universal Service Reform -- Mobility Fund)	WT Docket No. 10-208
)	
Rural Health Care Support Mechanism)	WC Docket No. 02-60
)	
Universal Service Contribution Methodology)	WC Docket No. 06-122

**COMMENTS OF THE
PUBLIC SERVICES COMMISSION OF THE UNITED STATES VIRGIN ISLANDS
IN RESPONSE TO
EMERGENCY PETITIONS FOR WAIVER IN CONNECTION TO HURRICANES
IRMA AND MARIA**

I. Introduction

On September 7, 2017, Hurricane Irma struck the U.S. Virgin Islands and devastated the telecommunications networks on St. Thomas and St. John. The majority of cell sites and most of the wireline infrastructure were made out-of-service on these islands. St. Croix lost about 25% of its cell sites. On September 20, Hurricane Maria destroyed most of the remaining telecommunications facilities in St. Croix and further damaged St. Thomas and St. John. After the storms passed, the overwhelming majority of telecommunications consumers had lost their

service. For most, their only means of communication was through Wi-Fi hot spots that were set up on an emergency basis. Compounding the dire situation, the commercial power network was destroyed. Wireline telecommunications cannot be restored until the electrical grid is rebuilt, which is expected to take up to six months.

Between the loss of telecommunications and the loss of electrical power, the economy of the Territory was severely damaged. Most businesses could not reopen even if their premises were not significantly damaged. The effects of the hurricanes hit low income residents particularly hard. The median income in the U.S. Virgin Islands before the hurricanes was only 2/3 that of the mainland and the poverty rate was three times the U.S. average. Many people no longer have jobs. The losses of personal income in the aftermath of the hurricanes will undoubtedly make these statistics much worse.

The need for additional relief is clear. On October 5, 2017, ATN International, Inc., the parent company of the Virgin Islands Telephone Company, Innovative Long Distance, Inc., VI PowerNet, LLC, Vitelcom Cellular, Inc., and Choice Communications, LLC, (collectively “Viya”) filed an emergency petition urging the Federal Communications Commission (“FCC” or “Commission”) to adopt a comprehensive universal service relief package patterned on the relief the Commission granted after Hurricane Katrina.¹ A similar petition was filed by Telrite Corporation on October 6, 2017.² With certain exceptions described below, the Public Services Commission of the United States Virgin Islands (“VI PSC”) supports these petitions and strongly urges the Commission to grant the relief requested.

¹ See Emergency Petition, WC Docket No. 11-42 et al., filed October 5, 2017 (“*Viya Petition*”)

² See Telrite Corporation Emergency Petition, WC Docket No. 11-42 et al., filed October 6, 2017 (“*Telrite Petition*”)

II. Lifeline and Link Up relief

Both Viya and Telrite propose a temporary Lifeline package patterned on the FCC's *Katrina Order*.³ They requested an enhanced Lifeline discount equal to that available to eligible telecommunications carriers (ETC") in Tribal Areas, a total of \$34.25 per month.⁴ The Commission recognized in the *Katrina Order* that additional support to low-income telephone customers in Louisiana and Mississippi was needed on a temporary basis to assist in disaster recovery efforts. Lack of access to telecommunications services would prolong the already long recovery period.⁵ The situation in the U.S. Virgin Islands is no less devastating. Further, the need for assistance to low-income residents in the Territory is greater because the poverty rate is higher than in the area affected by Hurricane Katrina and the local economy is much weaker. Consequently, we ask the Commission to consider the Viya and Telrite petitions favorably.

Both Viya and Telrite request a \$30.00 as a one-time credit for a wireless handset. As Telrite explained, "in the coming weeks and months, it and other ETCs will be required to replace a significant number of handsets that were lost or damaged as a result of Hurricanes Irma and Maria."⁶ Further, since the wireless carriers use different and incompatible technologies, Lifeline customers may have to change handsets if they change carriers to maintain continuity of service. We support making this credit available to low-income customers provided they certify that their previous handset was lost or damaged or if the new carrier certifies that the customer's existing wireless handset will not work on its network or if the customer is switching from

³ *Federal-State Joint Board on Universal Service, et al., Order*, CC Docket No. 96-45, et al., Released October 14, 2005, FCC 05-178 ("*Katrina Order*")

⁴ 47 C.F.R. 54.403(a)

⁵ *Katrina Order*, para. 8-9

⁶ *Telrite Petition*, Footnote 5

wireline to wireless service. We do not support making the one-time handset credit available to every Lifeline subscriber, including those whose handset still works. Even in times of natural disaster, regulatory agencies such as the VI PSC must be mindful not to waste universal service funding.

Telrite proposed that the Lifeline benefit should be “similar to those provided on Tribal lands.”⁷ Viya proposed a minimum of 750 minutes of voice, unlimited SMS and 2 Gbps of broadband mobile data. This proposal is more generous than required by Section 54.408 of the Commission’s rules which requires a minimum of 1 Gbps of broadband mobile data and which does not mandate SMS. While we appreciate efforts greater than required, we do not wish to impose any additional restraints on the carriers serving Lifeline customers in the Territory during these difficult times. Further, we are committed to a level playing field for all competitors, some of which may not currently provide the level of service proposed by Viya. Consequently, we urge the Commission to condition Lifeline relief on meeting the standards in Section 54.408.

Viya proposed that the special Lifeline benefit should be made available at the customer’s election to a MiFi device⁸ and data service plan in the event the customer places a greater value on data services.⁹ We support this suggestion because it reflects the way consumers use telecommunications services in the modern world. Last year, the FCC took several steps to recognize the reality that broadband services were gradually replacing traditional voice services. In its 2016 Lifeline Modernization Order, the Commission said, “(g)iven the importance of broadband to consumers in our society and how it is has become essential to

⁷ *Telrite Petition*, page 8

⁸ MiFi is a brand name for a portable broadband device that allows users to create a mobile Internet hot-spot that can be shared by multiple users.

⁹ *Viya Petition*, page 10

education, public health, and public safety, we believe it is necessary to provide Lifeline consumers the option of applying the Lifeline benefit to a standalone broadband offering.”¹⁰

Thus, Viya’s suggestion is consistent with past FCC decisions.

We also support temporarily modifying the “one-per-household” rule to allow qualified low-income households that had subscribed to Viya’s wireline voice and broadband services prior to the storm to receive one benefit for voice and one benefit for broadband in the event they could not get both services from the same ETC. This would allow those customers the flexibility to choose different ETCs if necessary to maintain the same level of service as before the storms.

We urge the FCC to make enhanced Lifeline support available for at least six months with an option to extend it for additional three month periods as necessary. Prior to the hurricanes, many Lifeline subscribers received their service from Viya’s wireline affiliate, the Virgin Islands Telephone Company (“VITELCO”). The storms destroyed virtually the entire VITELCO cable and wire plant which was mostly aerial and strung on poles owned by the Virgin Islands Water and Power Authority (“WAPA”) and powered by WAPA generators. The VITELCO wireline network used a hybrid fiber-coax architecture and the network termination equipment in customers’ homes used WAPA power.¹¹ As the WAPA poles snapped in the wind, the telephone cable was broken. Much of the cable that initially survived the wind was destroyed during the rescue, evacuation and clean-up in the immediate aftermath of the storms. If the outside plant is rebuilt using aerial cable, reconstruction must wait until WAPA replaces its broken poles, which may not be completed for an extended period of time. Undergrounding the

¹⁰ *In the Matter of Lifeline and Link Up Reform and Modernization, et al.*, Third Report and Order, Further Report and Order, and Order on Reconsideration, WC Docket No. 11-42, et al., Release April 27, 2016, FCC 16-38, para. 49

¹¹ This equipment had back-up batteries but service was lost in a few hours even when the outside plant was still functioning because of the WAPA power failures.

outside plant could take the same amount of time. WAPA and Viya plans for replacing their facilities are not clear at this time. Consequently, we ask the Commission to grant as much flexibility as possible.

Viya proposed special Link Up relief payment of \$30.00 for those Lifeline subscribers who were forced to change carriers in order to maintain their connectivity.¹² Currently, four ETCs are active in the Territory: Viya Telephone, Vitelcom Cellular (d/b/a Viya Wireless),¹³ Choice and Telrite. As Viya pointed out, there was extensive damage to all of these networks and some facilities may not be available for an extended period. Consequently, it may be necessary to migrate some Lifeline customers to a different service provider that has the capability to provide service. Current FCC rules provide Link Up support only for Tribal Lands. The rationale for this exception is that Tribal Lands pose significant obstacles to deploying telecommunications networks. However, we agree with Viya that the current situation in the U.S. Virgin Islands is as difficult as any challenges on Tribal lands.¹⁴ We request that the FCC should provide this benefit to any qualified household that has to change service providers.

III. Eligibility for Enhanced Lifeline benefit

Viya has proposed that the enhanced Lifeline benefit should be available to all customers who are eligible for FEMA benefits as the result of either or both hurricanes similar to the Commission's decision in the *Katrina Order*. We agree that using FEMA eligibility is reasonable. However, Viya apparently misunderstood the Commission's decision and believes that the enhanced Lifeline benefit should not be based on income. We disagree. Lifeline is, and

¹² *Viya Petition*, Page 12

¹³ Viya Wireless was designated as a Lifeline Only ETC by the VI PSC earlier this year.

¹⁴ There is precedent for a special Link Up benefit. The FCC provided a special \$30.00 Link Up benefit to any qualified household in temporary housing arrangements *Katrina Order*, para. 14

should be, a program targeted to assisting those with limited means. As the FCC said in the *Katrina Order*, “First, this Lifeline and Link-Up support is only available to consumers approved for FEMA disaster housing assistance or determined by FEMA to be eligible for housing assistance related to the hurricane. FEMA’s rules target housing assistance to individuals and households harmed by a disaster and generally have limited means.” ... “To ensure this support is targeted to those consumers with the greatest need, we are making this temporary support available to those consumers determined to be eligible for FEMA disaster housing assistance and who do not have any obligation under FEMA rules to repay FEMA for the support.”¹⁵ (Underline added). We support the Commission’s efforts to target assistance to only those who need it.

IV. Eligible Telecommunications Carriers

The requested Lifeline relief should be available to all ETCs serving the U.S. Virgin Islands.¹⁶ As pointed out by Telrite, the customer’s need for a replacement handset is not dependent on whether the carrier is facilities based or a reseller. Further, the Commission has granted a blanket forbearance from the “owned facilities” requirement to resellers seeking to become Lifeline-only ETCs.¹⁷ There is no reason Lifeline relief should be restricted to facilities based ETCs.¹⁸

¹⁵ *Katrina Order*, para. 17

¹⁶ On October 4, 2017, PRWireless, Inc. d/b/a Open Mobile, which serves mobile customers in Puerto Rico, filed an Emergency Petition for Waiver and Other Relief with the Commission. (“Open Mobile Petition”) As part of its petition, the company asked for an additional \$25.00 per month support (total of \$34.25). Without taking a position on any other relief sought by PRWireless, the VI PSC supports providing enhanced Lifeline benefits to all ETCs in areas affected by Hurricanes Irma and Maria.

¹⁷ *In the Matter of Lifeline and Link Up Reform and Modernization, et al.*, Report and Order and Notice of Proposed Rulemaking, WC Docket No. 11-42, et al., Release February 6, 2012, FCC 12-11, para. 365

¹⁸ Telrite asserted that Viya’s petition would restrict Lifeline benefits to facilities based carriers. We do not believe that was Viya’s intent. Viya merely referenced the Open Mobile Petition, which did contain such a restriction.

Because the network facilities of the ETCs, or their underlying carrier in the case of a reseller, were severely damaged or destroyed, the FCC should make provisions for Lifeline customers to be temporarily served by any carrier that is capable of providing service. In the *Katrina Order*, the FCC found that “forbearance from the ETC requirement will enhance the charges and practices of telecommunications carriers as it relates to Lifeline customers because it expands the scope of telecommunications services available to these consumers. Without such support, many of the affected consumers would be left with limited or no access to telecommunications services.”¹⁹ The Commission should follow the procedures it established in the *Katrina Order* for temporary ETC certification for alternate service providers.

V. Other matters

In its Petition, Viya requested waiver of the filing date for the Form 499-Q and extension of the deadlines for sending Lifeline de-enrollment notifications, E-Rate and Rural Healthcare invoices and any other USF forms that may be due during the nine month period following the hurricanes. We support these requests. Given the disruption to Viya’s customers and to Viya’s operations caused by two devastating back-to-back hurricanes, priority should be given to restoration rather than regulatory filings.

VI. Conclusion

The Public Services Commission respectfully requests that the Commission grant the relief proposed by Viya and Telrite with the modifications discussed above.

¹⁹ *Katrina Order*, para. 20

Respectfully submitted,

By: 

Donald G. Cole
Executive Director
Public Services Commission of the
United States Virgin Islands
340-690-1386

November 10, 2017